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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,527	02/12/2002	Peter J. Olandt	MPI01-018P1RNM	6686

7590 01/26/2005

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EXAMINER

RAO, MANJUNATH N

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/074,527

Applicant(s)

OLANDT ET AL.

Examiner

Manjunath N. Rao, Ph.D.

Art Unit

1652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: 27.

Claim(s) objected to: 2.

Claim(s) rejected: 1,3-7,12,18,25,26 and 28-30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Manjunath N. Rao, Ph.D.
Primary Examiner
Art Unit: 1652

Advisory Action

Claims 1-7, 12, 18, 25-28, 30 are now currently pending in this application.

Applicant's request for reconsideration filed on 1-3-05 has been considered but NOT ENTERED, as it raises new issues and requires the Examiner to institute new rejections. The amendment has not been entered for the following reasons;

In response to the previous Office action, applicants have responded by amending previously rejected claims and added new claims as well. Such an amendment cannot be entered at this time in the prosecution as it raises new issues leading the Examiner to make at least one new rejection and maintain previous rejections.

New claim 35 is drawn to a method (of claim 12) of making a polypeptide wherein said polypeptide is a fusion polypeptide comprises a non-33945 polypeptide. This claim raises two new issues, a) indefiniteness and b) written description. The indefiniteness arises due to the fact that applicants have not made it clear to the Examiner that said fusion polypeptide will continue to have the glycosyltransferase activity. On similar lines the claim will have to be rejected under 35 U.S.C. 112, 1st paragraph as lacking written description (function) for the polypeptide.

Furthermore, Examiner will also have to maintain the enablement rejection for claim 18 because applicants do not provide a specific high stringency language for hybridization.

Therefore the amendment filed on 1-3-05 has not been entered. All previous rejections are maintained for reasons of record.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-

Art Unit: 1652

0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura

Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

A handwritten signature in black ink, appearing to read 'Manjunath N. Rao', with a stylized flourish at the end.

Manjunath N. Rao, Ph.D.

Primary Examiner

Art Unit 1652

January 13, 2005